

**PUBLIC NOTICE  
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION  
CITY OF SAN JOSÉ, CALIFORNIA**

**GP04-05-04, C04-083 and H04-036.** General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Neighborhood/Community Commercial, Conforming Rezoning from R-1-8 Residential to CP Commercial Pedestrian Zoning District and Site Development permit to construct a 17,000 square foot commercial building for a property located on a 1.38-acre site located on the west side of White Road, 300 feet south of McKee Road (253 and 271 North White Road) (see attached location map). (The Rumi Group, Owner/Applicant). Council District: 5

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

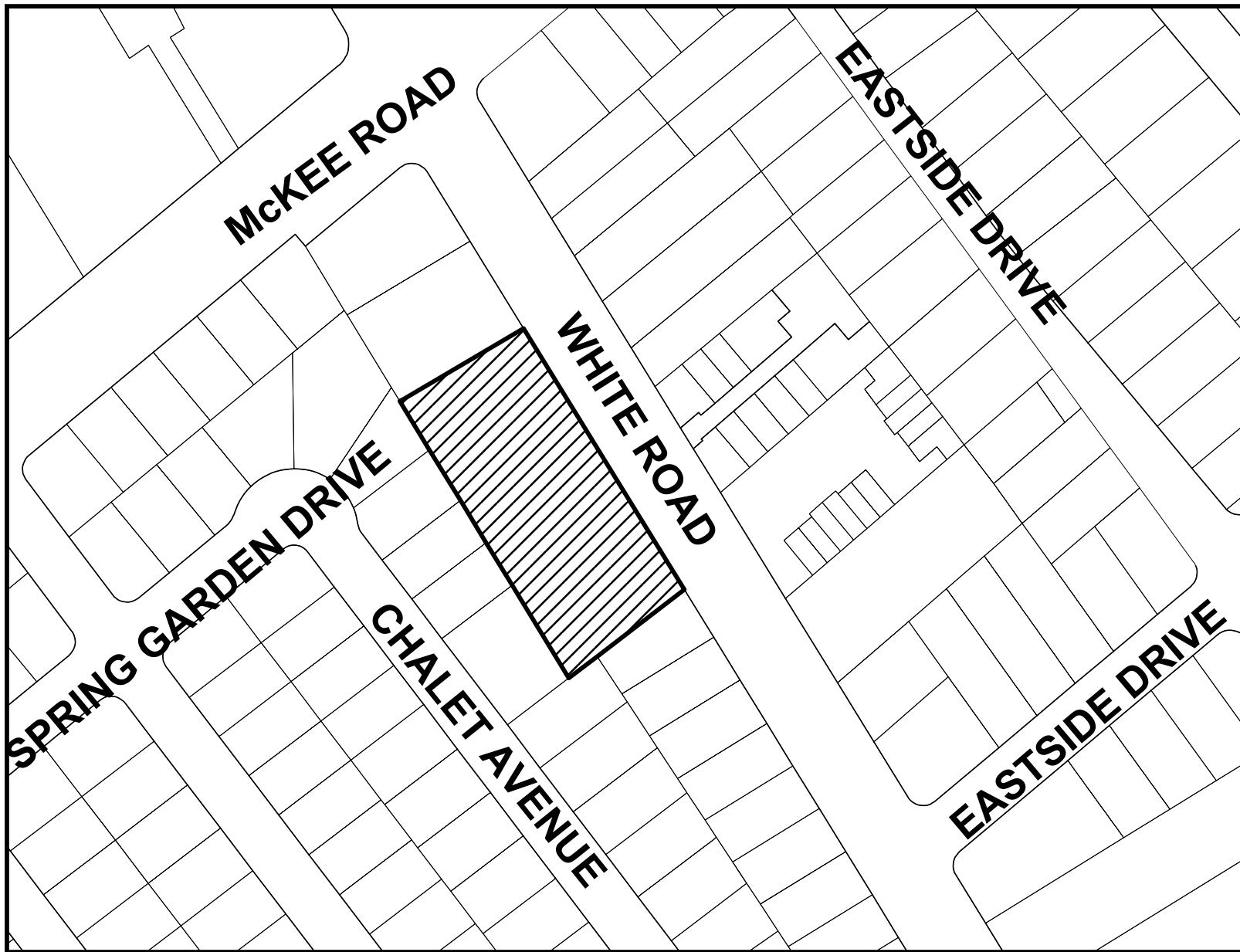
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **November 29, 2004**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **November 10, 2004** and ends on **November 29, 2004**.

A public hearing on the project described above is tentatively scheduled for the **Planning Commission on November 29, 2004** at 6:00 p.m. in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, and the Evergreen Branch Library, 2635 Aborn Road, San Jose, 95121 and online at <http://www.sanjoseca.gov/planning/eir/MND2004.htm>. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Elena Lee** at (408) 277-4576.

Stephen M. Haase, AICP, Director  
Planning, Building and Code Enforcement

Date: November 10, 2004

\_\_\_\_\_  
Deputy



Scale: 1"=160'

Map Created On:  
08/04/2004

**File No: H04-036**

**District: 05**

**Quad No: 52**

**DRAFT  
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**PROJECT FILE NUMBER:** GP04-05-04, C04-083 and H04-036

**PROJECT DESCRIPTION:** General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Neighborhood/Community Commercial, Conforming Rezoning from R-1-8 Residential to CP Commercial Zoning District and Site Development Permit H04-036 for property located on a 1.38-acre site.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** West side of North White Road and 300 feet south of McKee Road . Assessor's Parcel No. 484-12-089, -090.

**COUNCIL DISTRICT:** 5; Nora Campos

**NAME OF APPLICANT:** The Rumi Group, LLC

**MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:**

Attn: Ali Kalbali, Rumi Group, LLC, 400 Reed Street, Suite 316, Santa Clara, CA 95050,  
Phone: (408) 988-1110, Fax: (408) 988-1116

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, agrees to program level mitigation measures that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

1. Urban Design Policy #1: The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.
2. Urban Conservation Policy #2: The City should encourage new development, which enhances the desirable qualities of the community and existing neighborhoods.

3. Urban Design Policy #8: Design solutions should be considered in the development review process, which addresses security, aesthetics, and public safety.
4. Historic, Archeological, and Cultural Resources Policy #1: Because historically or archeologically significant sites, structures, and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.
5. Historic, Archeological, and Cultural Resources Policy #9: Recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.
6. Hazards Policy #1: Development should only be permitted in those areas where potential to the health, safety, and welfare of the residents of the community can be mitigated to an acceptable level.
7. Earthquake Policy #1: The City should require that all new buildings be designed and constructed to resist stresses produced by earthquakes.
8. Soils and Geologic Conditions Policy #1: The City should require soils and geologic review of development proposals to assess such hazards as potential seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion and sedimentation in order to determine if these hazards can be adequately mitigated.
9. Water Resources Policy #12: For all new discretionary development permits for projects incorporating large paved areas or other hard surfaces (e.g., building roofs), or major expansion of a building or use, the City should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff.
10. Noise Policy #1: The City's acceptable noise level objectives are 55 DNL as the long-range exterior noise quality level, 60 DNL as the short-range exterior noise quality level, 45 DNL as the interior noise quality level, and 76 DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. These objectives are established for the City, recognizing that the attainment of exterior noise quality levels in the environs of the San José International Airport the Downtown Core Area, and along major roadways may not be achieved in the time frame of this Plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction and noise attenuation techniques in new residential development.
11. Urban Forest Policy # 2: Development projects should include the preservation of ordinance-sized, and other significant trees. Any adverse affect on the health and longevity of native oaks, ordinance sized or other significant trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate tree replacement. In support of these policies the City should: Continue to implement the Heritage Tree program and the Tree Removal Ordinance. Consider the adoption of Tree Protection Standards and Tree Removal Mitigation Guidelines. To accomplish this policy, the project shall include the following specific mitigation measures.

All non-orchard trees that are to be removed shall be replaced at the following ratios:

- Each tree less than 12" in diameter to be removed = one 15 gallon tree
- Each tree 12" to 18" diameter to be removed = two 24" box trees

- Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit has been approved for the removal of such trees. Each tree greater than 18" diameter to be removed = four 24" box trees

12. Precautions should be taken during construction activities. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices should be implemented during all phases of construction on the project site. With the inclusion of these mitigation measures, the short-term air quality impacts associated with construction will be reduced to less-than significant levels.

- Use dust-proof chutes for loading construction debris onto trucks.
- Water to control dust generation during demolition of structures and break-up of pavement.
- Cover all trucks hauling demolition debris from the site.
- Ware or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, or loose materials, or required trucks to maintain at least two feet of freeboard.
- Sweep daily all paved access road, parking areas, and staging areas at construction sites.
- Sweep streets daily if visible soil material is carried onto adjacent public streets.
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc)
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

13. Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses. Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation

pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.

14. Prior to issuance of a development permit, the applicant shall provide a sewer capacity study to the satisfaction of the Director of Planning and the Director of Public Works to determine measures that the applicant shall be required to implement to ensure that the sewer capacity is adequate for the proposed land use.

## **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **November 29, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Circulated on: November 11, 2004

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Deputy

Adopted on: \_\_\_\_\_

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Deputy

## NOTICE OF PUBLIC HEARINGS

City of San Jose, City Hall  
801 North First Street, City Council Chambers, 2<sup>nd</sup> Floor

### Fall 2004 Hearings on General Plan Amendments

**Planning Commission:** Monday, November 1, 2004, 6:00 p.m.

**City Council:** Tuesday, December 7, 2004, 7:00 p.m.

*Proposal to amend the General Plan designation on a site located at 253 and 271 North White Road (see map on back) to allow for a change from Medium Low Density Residential (8 dwelling units per acre) to Neighborhood/Community Commercial on 1.38 acres. Approval of this amendment would allow neighborhood and community-serving commercial uses such as offices and retail shops on the subject site. This change would allow the City Council to consider the rezoning application, File No. C04-083, for a Conventional Rezoning from R-1-8 Residence Zoning District to CP Commercial Pedestrian Zoning District to allow commercial/retail uses on the subject site.*

You are invited to participate in the above public hearings. The Planning Commission will make a recommendation to the City Council, and the City Council will make the final decision on the proposed General Plan amendment. Please note that the *San Jose 2020 General Plan* reflects the long-range future growth for the City. A change in the General Plan land use designation would only affect the type and intensity of future development allowed on the subject property. The proposed amendment to the General Plan for the above referenced property would not change the zoning designation of the property. Zoning changes occur through the rezoning process, which is separate from the General Plan amendment process.

The General Plan Amendment (**File No. GP 04-05-04**) being considered is a request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential designation (8 DU/AC) to Neighborhood/Community Commercial for property located at the west side of North White Road and 300 feet south of McKee Road (see attached location map) on a 1.38-acre site. (Ali Kalbali, Owner/Applicant). Council District: 5 (See explanation of existing and proposed General Plan designations on back.)

Comments and questions regarding this proposal or the General Plan amendment process are welcome, and should be referred to the Project Manager, **Elena Lee**, at **(408) 277-4576**.

Documents for this project are on file and available for review (MWF: 9 a.m. to 5 p.m.; TTh: 10 a.m. to 5 p.m.) at: **Planning, Building and Code Enforcement, 801 North First Street, Room 400, San Jose, CA 95110, or call (408) 277-4576**. Reports and documents will also available on-line at: [www.ci.san-jose.ca.us/planning/sjplan/](http://www.ci.san-jose.ca.us/planning/sjplan/) one week prior to the scheduled hearing.

Stephen M Haase, AICP, Director  
Planning, Building and Code Enforcement

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Laurel Prevetti, Deputy Director

Date: \_\_\_\_\_

***Existing General Plan  
Designation:***

**Medium Low Density  
Residential (8 DU/AC)**

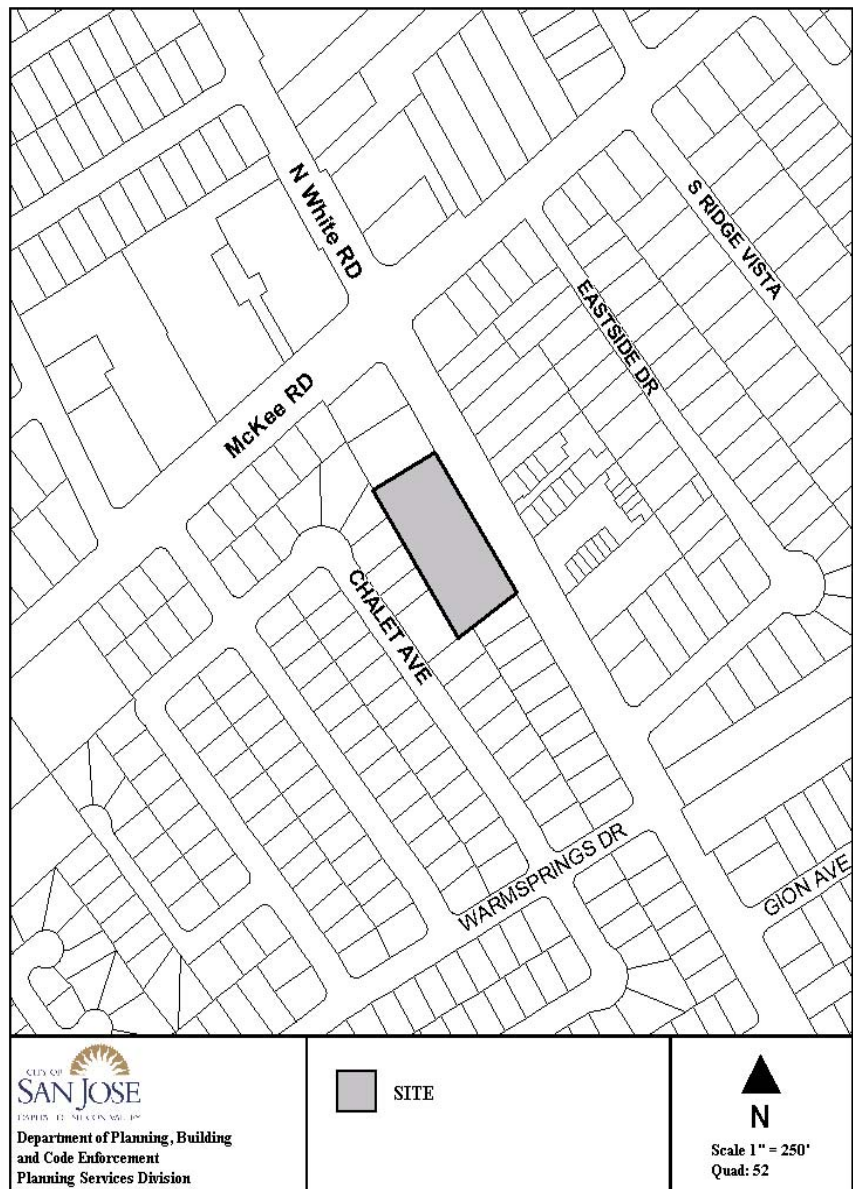
This density is typified by 6,000 square-foot lots. It is characteristic of many residential neighborhoods in San Jose where single-family detached homes have been built. Smaller-lot, detached homes and single-family attached residences are also appropriate in this category.

***Proposed General Plan  
Designation:***

**Neighborhood/Community  
Commercial**

Future uses in the Neighborhood/Community Commercial designation should develop in the form of shopping centers, as a group of commercial establishments planned and developed as a unit and related in size and type of shops to the trade area it serves. Typical uses in this designation are neighborhood serving retail and service establishments.

GP04-05-04



To arrange an accommodation under the Americans with Disabilities Act to participate in these public hearings, please call (408) 998-5299 (TTY) at least 48 hours before the hearing. This document can be made available upon request in alternative formats such as Braille, large print, audio tape or computer disk. Requests can be made by calling (408) 277-4000 (Voice) or (408) 998-5299 (TTY).

If you choose to challenge this land use decision in court, you may be limited to only those issues that you or someone else raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing. Reports including the staff report and recommendation are available a week before the public hearing. Additionally, a public packet will be available for review at the hearing.